IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 16TH NOVEMBER 2006 / 25TH KARTHIKA 1928

WP(C).No. 13975 of 2005(S)

PETITIONER:

K.J.MATHEW, AGED 59
S/O. LATE JOSEPH KINATTUKARA HOUSE,
CHETUTHODE P.O., KALAKETTY VIA.

BY ADV. SRI.JOHNSON MANAYANI

RESPONDENTS:
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1. THE DISTRICT COLLECTOR,
COLLECTORATE, KOTTAYAM.

2. THE EXPERT COMMITTEE UNDER
THE KERALA RIVER BANKS PROTECTION AND SAND
MINING REGULATION ACT 2001 REPRESENTED BY ITS
CHAIRMAN, THE DISTRICT COLLECTOR,
COLLECTORATE, KOTTAYAM.

3. THE GEOLOGIST, MINING AND GEOLOGY,
COLLECTORATE, KOTTAYAM.

4. THE BHARANANGANAM GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY, BHARANANGANAM P.O.,
KOTTAYAM DISTRICT.

5. THE PANCHAYATH PRESIDENT
BHARANANGANAM GRAMA PANCHAYATH,
BHARANANGANAM P.O., KOTTAYAM.

6. PALA MUNICIPALITY REPRESENTED BY
ITS SECRETARY, MUNICIPAL COMPLEX, PALAI,
PALAI P.O., KOTTAYAM DISTRICT.

7. THE MUNICIPAL CHAIRMAN, PALAI
MUNICIPALITY, PALAI P.O., KOTTAYAM DISTRICT.

8. THE SECRETARY TO LOCAL ADMINISTRATION,
SECRETARIAT, TRIVANDRUM.

9. THE HOME SECRETARY, SECRETARIAT,
TRIVANDRUM.

10. THE REVENUE SECRETARY, SECRETARIAT,
TRIVANDRUM.

11. THE STATE OF KERALA, REPRESENTED BY
ITS SECRETARY TO REVENUE AFFAIRS
SECRETARIAT, TRIVANDRUM.

R6 & R7 BY ADV. SRI.V.M.KURIAN
SRI.A.V.THOMAS
SRI.MATHEW B. KURIAN
SRI.K.T.THOMAS
R4 & R5 BY SRI.N.NAGARESH
SRI.SHAJI THOMAS PORKKATTIL
R1,R3 & R8 TO R11 BY SR.GOVERNMENT PLEADER MR.M.R.SABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE NEWSPAPER REPORT PUBLISHED IN HINDU DAILY DT.3.5.2005.

EXT.P2 TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE RESPONDENTS 8 & 9 DT.3.5.2005.

EXT.P3 THE NEWS REPORTED IN MATHRUBHUMI DAILY DT.3.5.2005 WITH REGARD TO THE SAD DEMISE OF SIX STUDENTS.

EXT.P4 TRUE COPY OF THE EDITORIAL PUBLISHED BY MALAYALA MANORAMA DT.4.5.2005.

EXT.P5 TRUE COPY OF THE EDITORIAL PUBLISHED BY MANGALAM

EXT.P6 TRUE COPY OF THE NEWS ITEM PUBLISHED BY HINDU DAILY DT.2.5.2005.

EXT.P7 TRUE COPY OF THE DELARATION OF THE REVENUE MINISTER.

RESPONDENTS' EXHIBITS:

EXT.R4(A) TRUE COPY OF THE INSPECTION REPORT OF THE TAHSILDAR, MEENACHIL DT.6.11.2004.

EXT.R4(B) TRUE COPY OF THE PROCEEDINGS DATED 30.11.2004 OF THE DISTRICT COLLECTOR.

EXT.R4(C) TRUE COPY OF THE REPORT DATED NIL OF CENTRE FOR EARTH SCIENCE STUDIES

EXT.R4(D) TRUE COPY OF THE RIVER MANAGEMENT FUND STATEMENT OF BHARANANGANAM PANCHAYAT FOR THE MONTH OF MARCH 2005.

V.K. BALI, C.J. & S.SIRI JAGAN, J.

W.P.(C) No.13975 of 2005

Dated, this the 16th day of November, 2006

JUDGMENT

V.K.Bali,C.J.(Oral)

K.J.Mathew, the petitioner herein, through this public interest litigation filed by him complains of illegal extraction of sand from Meenachil river. In the context of the counter affidavit filed on behalf of the respondents there will be no use in making details of the case. Along with the memo filed by the first respondent a report giving details of the actions taken for preserving the Meenachil river has been given. The relevant portion of the same reads as follows:

> "The details of auctions conducted by the Tahsildar, Meenachil as per his order No.B7-10961/05 as follows:

Name of kadavu	sanction for sand mining from	No. of days	No. of loads/day
Eyalel kadavu	07.10.05	30	4
	27.12.05	30	4
	13.02.06	30	4
Mattel kadavu	18.10.05	30	3
	09.12.05	30	3
	27.01.06	30	3

Chembilavu kadavu	07.10.05	30	4
	27.12.05	30	4
	13.12.05	30	4
Kaduthottil kadavu	07.10.05	30	3
	27.12.05	30	3
	20.02.06	30	3

2. It is the case of the respondents that as per the statement filed by the third respondent the sand mining activities and the quantity of sand to be extracted from the river will be monitored by the kadavu committee and the concerned local bodies.

3. Learned counsel appearing for the petitioner, however contends that in fact and in reality far more sand is being extracted as mentioned in the report and this is happening primarily for the reason that extraction of sand is carried out at night. He only states that if sand has to be extracted in the quantity as mentioned in the report the same will be done in day time. Learned Government Pleader who appears on behalf of the first respondent has no objection to the suggestion made by the learned counsel for the petitioner. We only observe that while extracting sand in the quantity mentioned in the report the

operation would be carried out only during day time and further that the kadavu committee would have strict vigil of the extraction of sand from the river.

With the observation as made above this writ petition is disposed of.

V.K. BALI,
CHIEF JUSTICE.

S.SIRI JAGAN,
JUDGE.

vns